a repayment to themselves of the surplus in the trustee's hands, must do equity, and pay out of that surplus the interest which has accrued on these approved claims between the date of filing the petition and the date of payment of the claims. *Johnson* v. *Norris* (1911) 190 Fed. 459.

The general rule, as is stated in the principal case, is that where property of an insolvent passes into the hands of the Court, subsequently accruing interest is not allowed against the fund. *Thomas* v. *Western Car Co.*, 149 U. S. 95. But reason, equity, the texts, and early decisions furnish ample authority and support of the doctrine established by the principal case, that where the estate is sufficient to treat all equally, after the payment of all claims in full, creditors are entitled to the interest on their claims from the date of the filing of the petition up to the date of payment of the claim. BRANDENBURG, Ed. 3, § 990; LOVELAND, p. 764; *In re Hagan,* Fed. cases 5898; *In re Bank of N. C.,* Fed. Cas. 895; *In re Town,* Fed. Cas. 14112; *In re Strachan,* Fed. Cas. 13519.

BANKS AND BANKING—PAYMENT OF CHECK TO WRONG PERSON—ESTOPPEL.—An imposter was introduced by one W to plaintiff as George Thresh who wanted to procure a loan of money and represented himself as the owner of a farm. Title to the land upon the county records stood in the name of George Thresh. Plaintiff, believing the stranger to be the same Thresh as the owner of the farm, gave him his check and accepted a mortgage as security. Defendant bank, on the identification of W, cashed the check and plaintiff now sues for wrongful payment. *Held,* there being no proof that the name of the person who received payment was not George Thresh, there is no evidence of a forgery, and that plaintiff was estopped by his own lack of caution to demand reimbursement from the bank. *McHenry* v. *Old Citizens Nat. Bank of Zanesville* (Ohio 1911) 97 N. E. 395.

The old theory upon which the drawer of the check under the above facts must suffer the loss was placed upon the ground that the payment of the check to or upon the indorsement of such an imposter, carries out the actual intention with which the drawer issued the check, although that intention was induced by a mistake of fact as to the inposter's identity. *Land Title & Trust Co.* v. *N. W. Nat. Bank,* 196 Pa. 230, 50 L. R. A. 75; and cases cited in note. This rule is repudiated in *Tolman* v. *American Nat. Bank,* 22 R. I. 462, 52 L. R. A. 877, 84 Am. St. Rep. 850. But the adoption of the theory of estoppel in the principal case, instead of that of actual intention, avoids the difficulty of attributing to the drawer an intention that the person to whom he delivers it shall be the payee, notwithstanding that the check itself describes the payee by the name of another person from whom the consideration purports to come. It also avoids the obvious absurdity of imposing the loss upon the drawer where he was completely deceived, and relieving him from it where he was *not* completely deceived, as held in *Dodge* v. *Nat. Ex. Bank,* 30 Ohio 1. The bank must bear the loss where the imposter assumes to be the agent of the payee. *Hauser* v. *Nat. Bank,* 27 Pa. Super. Ct. 613; *Murphy* v. *Met. Nat. Bank,* 191 Mass. 159, 114 Am. St. Rep. 595; *Atlanta Nat. Bank* v. *Burke,* 81 Ga. 597, 2 L. R. A. 96; *Armstrong* v.

Pomeroy Nat. Bank, 46 Ohio St. 512, 6 L. R. A. 625; or where the check is payable to a fictitious payee. *Harmon* v. *Old Detroit Nat. Bank*, 153 Mich. 73, 17 L. R. A. (N.S.) 514; *contra Kohn* v. *Watkins*, 26 Kan 691, 40 Am. Rep. 336.

BILLS AND NOTES—CONSTRUCTION OF INSTRUMENT—NEGOTIABLE NOTES.—A note containing the following provision, "the makers of this note thereby severally waive presentment for payment, notice of nonpayment, protest, and consent that time for payment may be extended without notice thereof," was held to be negotiable. *Missouri-Lincoln Trust Co.* v. *Long* (Okla. 1911) 120 Pac. 291.

One of the essential requisites of a negotiable instrument is that the time of payment must be certain. DANIEL, NEG. INST. Ed. 5, §§ 27, 28, 30. What would constitute certainty as to time within the meaning of the Negotiable Instruments Law is a question on which judicial opinions seem to differ widely. In harmony with the principal case are the following cases in which it was held that stipulations for the extension of time of payment of a note do not destroy its negotiability. *National Bank* v. *Kenney*, 98 Tex. 293; *Jacobs* v. *Gibson*, 77 Mo. App. 244; *City Nat. Bank* v, *Goodloe-McClelland Commission Co.*, 93 Mo. App 123; *Farmer* v. *Bank of Graettinger*, 130 Iowa 469; *Anniston Loan & T. Co.* v. *Stickney*, 108 Ala. 146, 31 L. R. A. 234, 19 South 63. It is said that such stipulations do not render a note non-negotiable, as the event on which the time and duty of payment depend is one over which the holder will have entire control. *Protection Ins. Co.* v. *Bill*, 31 Conn. 534. A clause in a promissory note providing that the payee or his assigns may indefinitely extend the time of payment destroys its negotiability. *Woodbury* v. *Roberts*, 59 Iowa 348; *Glidden* v. *Henry*, 104 Ind. 278; *Smith* v. *VanBlarcom*, 45 Mich 371, 8 N.W. 90. Cases of this type can be distinguished from the preceding cases, as it is clear that the time of payment is uncertain when it may be extended indefinitely. Stipulations in a note which are similar in nature to that in the principal case are held to destroy the negotiability of the instrument in the following cases. *Rosenthal* v. *Rambo*, 28 Ind. App. 265; *Oyler* v. *McMurray*, 7 Ind. App. 645; *Evans* v. *Odem*, 30 Ind. App. 207; *Citizens N. Bank* v. *V. E. Piollet*, 126 Pa. 194, 4 L. R. A. 190; *City Nat. Bank of Kansas City* v. *Gunther Brothers*, 67 Kan. 227, 72 Pac. 842; *Coffin* v. *Spencer*, 39 Fed. 262; *Union Stockyards Nat. Bank of South Omaha, Neb.* v. *Bolan*, 14 Idaho 87, 93 Pac. 508; *Miller* v. *Poage*, 56 Iowa 96. The holding of these cases is a more reasonable interpretation of the Negotiable Instruments Law, which requires that an instrument, to be negotiable, "must be payable on demand or at a fixed or determinable future time" since it is impossible for one to determine from an inspection of the instrument itself when it may mature as it cannot be known what extension may have been or may hereafter be agreed upon.

BILLS AND NOTES—INDORSERS—NOTICE OF DISHONOR BY TELEPHONE—SUFFICIENCY.—Notice of dishonor of a note by telephone was held sufficient under the Negotiable Instruments Law which provides that "the notice may be in writing or merely oral" and "may in all cases be given by delivering it per-